"THE SUCCESSION LAW EMAG"

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SWW

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THE SOCIETY OF WILL WRITERS

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Dear Readers,

As the weather turns a little colder and the heating in our homes creeps up we all start to look forward towards Autumn. With it, the darker nights draw in and our thoughts turn to family events like Halloween and Bonfire Night, and dare I say it, Christmas.

I read recently that the most popular week for babies being born also falls in late September and if this is to be the same for you, then congratulations. The introduction of a new family member is a happy time and one to be remembered. It also marks a life event that should encourage you to consider writing a Will or may prompt you to change yours to keep it up to date. We've included an article in this month's E-Mag about guardianship.

If you haven't yet written a Will or done any estate planning then this month's Focus SWW is perfect. We've got a really in depth article to help you make some key decisions.



One of the most important decisions is choosing who to engage to help you. Our advice is to appoint a member of the SWW and to avoid anyone who doesn't choose to come under our self-regulatory framework.

If you have any questions about this then you're welcome to speak to a member of our friendly team. Otherwise we wish you all the best for the coming months. Until the next issue.

Best Wishes,

Tom Stansfield Marketing Director The Society of Will Writers and Estate Planning Practitioners

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WHAT CAN WE ESTATE PLAN VANIT

Sunday night brought us the third episode in the ITV adaptation of William Makepeace Thackeray's Vanity Fair.

Spoiler alert...

Vanity Fair follows the story of Becky Sharpe, a poor orphan out to make her fortune by whatever means necessary. She's already courted her friend Amelia's wealthy yet insecure brother and following a disastrous and drunken evening he took his leave of poor Becky.

Since then, Becky has become very friendly with Lady Matilda Crawley the wealthy aunt of Rawdon, one of her suitors. Rawdon is a dashing military officer who relies on his aunt for handouts and because she isn't married, hopes to inherit her huge fortune. There is competition though. Matilda demonstrates the typical upper class snobbery of the early 19th century and is disgusted to learn of the marriage of her nephew and Becky and views this as a betrayal and desperate attempt to inherit her fortune. As a result she cuts them off.

This is the first in an interesting case of inheritance and succession law discussion points. The principle of testamentary freedom (the right to gift your property, chattels, real estate etc. to whom you want) is one that is specific to English & Welsh Law and differs from the rules of many civil law jurisdictions, France for example.

Whilst Matilda Crawley resents her family and knows they simply want to inherit her enormous wealth she has the power to keep them all guessing as to where it will be going. Should Captain Rawdon get nothing he has no claim, but should this have happened post 1975 then he may have been able to make a claim under the Inheritance (Provision for Family and Dependents) Act 1975. The reason for this is because he has relied on the charity of his aunt to maintain his lifestyle so may qualify as a 'person being maintained'. Historically though he had no rights. Part of me hopes that Miss Briggs the maid inherits to the disappointment of all of the Crawleys.

What does differ is that in 1814 when Vanity Fair's third episode was set the primary piece of legislation governing Will writing as we know it (The Wills Act 1837) hadn't come into force. What was in place was the 1796 tax on estates which was introduced to help the war against Napoleon.

The idea of cutting someone out of your inheritance was also prevalent in the Osbourne's

LEARN ABOUT NING FROM FAIR?

story line. George disobeyed his Father's request to go to war as well as the request to marry Amelia and runs the risk of disinheriting himself.

The next episode will certainly be enlightening. What will happen to Lady Crawley, will George Osbourne reunite with his father and what will Becky's fate be? Will she find fortune?

Our characters will be thinking more about their demise in later episodes. Napoleon has escaped and is coming back to France, our gallant officers are going to war and our wealthy and more mature (in age) characters like Lady Crawley and Mr Osbourne will be thinking about inheritances and a line of succession.

Interestingly, Inheritance law was different in the early 1800's when Vanity Fair was set. The more modern inheritance tax legislation didn't come into force until 1894 and was introduced in order to help the government pay off a whopping £4m deficit. Death tax in some form has been in place since 1694 and for as long as there has been Inheritance Tax, there has been tax avoidance and in . Savvy businessmen like Mr Osbourne will no doubt be wanting to gift assets in his lifetime to

avoid any charges. He'll be even more intent on avoiding charges at the time including the 1796 tax on estates introduced to help fund the war against Napoleon, especially as he didn't want his son to go to war.

Stay tuned for the next installment of Vanity Fair.

EVER WONDERED ABOUT SUCCESSION RIGHTS FOR COHABITING COUPLES?

The judgement for Banfield v Campbell [2018] EWHC 1943 (Ch) was handed down in August, with the result being that the claimant was awarded a life interest in half of the net proceeds of sale of the deceased's property rather than a lump sum. The claimant, Mr Banfield, brought a claim against his deceased partner's estate under the Inheritance (Provision for Family and Dependants) Act 1975 on the basis that her will failed to make reasonable financial provision for him following her death on a holiday flight to the Canary Islands in 2015.

Mrs Cambell's will left the residue of her estate to James, her son from a previous relationship, on the condition he reach 25 and a gift of £5000 to Mr Banfield who in the will was described as a 'friend'. Considering the will was written in the early stages of their relationship this description was likely apt for the time.

Mr Banfield brought a claim under section 1(1A) of the 1975 Act as a cohabitant of the deceased who was living as a spouse, and also under section 1(1)(e) as a person being maintained by her immediately before her death.

There was some dispute over whether Mr Banfield was entitled to bring a claim under section 1(1A), with James alleging that he lived more like a lodger by the time of Mrs Campbell's death. The basis for this claim was that by 2011 the claimant and deceased were no longer sharing a bed, largely because Mr Banfield found it more comfortable to live downstairs due to ongoing health issues. It was held that this was no reason to conclude that they were not living together as though they were married though, and witness statements suggested that Mrs Campbell had made it clear that she did not wish to be on her own. He was able to bring his claim under this section.

He was also able to bring his claim as a person being maintained, as immediately before the deceased's death he was being maintained by way of rent-free accommodation and had been for a number of years. Although the actual date that they began to cohabit was also disputed, it was agreed that by 2001 he had moved in with the deceased.

The judge accepted that reasonable financial provision had not been made for Mr Banfield and were sympathetic towards the position he had been left in especially regarding his housing needs. As he was not married to the deceased the judge could only award what was necessary for his maintenance, as the maintenance standard is a lower standard of provision than the surviving spouse standard. This did not equate to awarding him a capital sum large enough to allow him to purchase his own home.

The result was that the judge ordered the property to be sold and Mr Banfield given a life interest in half of the net proceeds of sale to be used towards providing accommodation for him. The main reason given for this is that in this case the award of a lump sum as maintenance was not appropriate as the deceased had a child from an earlier marriage to whom she wanted to pass on capital to.

A further reason given is that awarding a lump sum to the claimant would be depriving the deceased's son, whom the deceased indicated she intended to receive the bulk of her estate in a letter of wishes. It was suggested that where a lump sum of 50% or more was sought it was likely to be more appropriate to award a life interest to provide housing rather than a lump sum.

This case highlights the important of keeping your planning up to date and regularly reviewing wills as relationships evolve and change. It also provides an interesting look into what is considered 'reasonable provision' when maintaining cohabitants.

For the full judgement see: http://www.familylawhub.co.uk/ default.aspx?i=ce6772



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LET'S FACE IT. WE'RE ALL A BIT NOSEY AND LIKE TO LOOK AT CELEBRITY WILLS. HERE IS A LIST OF SOME STRANGE REQUESTS.

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JANIS JOPLIN

RECORDING ARTIST AND SONGWRITER JANIS JOPLIN, WAS FAMOUS FOR HER WORK IN THE 60S AND 70S. SHE SADLY MET A TRAGIC DEATH IN 1970. JOPLIN'S WILL INLCUDED A GIFT OF \$2,500 TO BE USED FOR A PARTY IN THE EVENT SHE PASSED AWAY.

2. HARRY HOUDINI

HARRY HOUDINI WAS A FAMOUS MAGIAN AND SADLY DIED IN 1926. IN HIS WILL HE WROTE IO RANDOM WORDS TO HIS WIFE. HE WANTED HIS WIFE TO HOLD A SÉANCE EVERY HALLOWEEN AFTER HIS DEATH AND INSTRUCTED THAT HE WOULD COMMUNICATE WITH HER THROUGH THOSE IO WORDS. AFTER HIS PASSING, HIS WIFE HELD SUCH SÉANCES EVERY YEAR FOR IO YEARS, EVENTUALLY STOPPING SINCE HOUDINI DID NOT MAKE HIS PRESENCE KNOWN.

3. ROBERT LOUIS STEVENSON

YOU CAN BEQUEST ANYTHING YOU OWN IN YOUR WILL AND ROBERT LOUIS STEVENSON WENT ONE STEP FURTHER. WHEN HE DIED HE LEFT HIS BIRTHDAY TO A FRIEND WHOSE BIRTHDAY FELL ON CHRISTMAS DAY BECAUSE SHE FELT CHEATED.

4. DUSTY SPRINGFIELD

THE FAMOUS SINGER'S WILL IS SURE TO MAKE YOU SMILE. IN IT SHE DIRECTED THAT HER CAT, NICHOLAS, BE FED IMPORTED BABY FOOD, LIVE IN AN INDOOR TREE HOUSE, BE SUNG TO SLEEP AT NIGHT WITH DUSTY'S OLD RECORDS, HAVE HIS BED LINED WITH DUSTY'S PILLOWCASE AND NIGHTGOWN, AND GET MARRIED TO A FRIEND'S FEMALE CAT.

5. MARILYN MONROE

THE FASHION ICON MONROE LEFT ALL OF HER PERSONAL EFFECTS TO HER ACTING COACH, LEE STRASBERG. APPARENTLY, ALL OF HER BELONGINGS SAT IN LEE'S BASEMENT UNTIL THE DAY HE DIED.

B.GRUENWALD

MARK GRUENWALD WAS THE EXECUTIVE EDITOR OF CAPTAIN AMERICA AND IRON MAN. HE SUFFERED A FATAL HEART ATTACK IN 1996 AND IT WAS DISCOVERED IN HIS WILL THAT HE WANTED TO BE CREMATED AND WANTED ASHES TO BE MIXED WITH INK SO THAT IT COULD BE USED TO PRINT MORE COMIC BOOKS— AND THEY WERE.

NAPOLEON BONAPARTE

NAPOLEON BONAPARTE IS A NAME WE'RE ALL FAMILIAR WITH BUT YOU MAY NOT KNOW ABOUT AN ODD BEQUEST IN HIS WILL. AFTER HIS DEATH IN 1821, HIS WILL DIRECTED THAT HIS HEAD BE SHAVED AND HIS HAIR BE DISTRIBUTED AMONG HIS FRIENDS.

8. LEONA HELMSLEY

LEONA WAS A HOTEL OWNER AND CAUSED QUITE A STIR AFTER SHE DIED. SHE LEFT £10M TO HER BROTHER £5M TO HER GRANDCHILDREN AND £12M TO HER DOG!!

9. PHILIP SEYMOUR HOFFMAN

THE FAMOUS SINGER'S WILL IS SURE TO MAKE YOU SMILE. IN IT SHE DIRECTED THAT HER CAT, NICHOLAS, BE FED IMPORTED BABY FOOD, LIVE IN AN INDOOR TREE HOUSE, BE SUNG TO SLEEP AT NIGHT WITH DUSTY'S OLD RECORDS, HAVE HIS BED LINED WITH DUSTY'S PILLOWCASE AND NIGHTGOWN, AND GET MARRIED TO A FRIEND'S FEMALE CAT.

IO. CHARLES DICKENS

ENGLISH AUTHOR CHARLES DICKENS WAS REALLY PARTICULAR ABOUT HIS FUNERAL. HE PICKED OUT HIS OUTFIT FOR HIS MEMORIAL SERVICE, AND HE ASKED THAT "THOSE ATTENDING MY FUNERAL WEAR NO SCARF, CLOAK, BLACK BOW, LONG HAT-BAND, OR OTHER SUCH REVOLTING ABSURDITY".

PROTECT YOURSELF FROM FRAUDSTERS

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osing everything you've worked hard for or everything your family have worked hard to accumulate doesn't bare thinking about, and you should take all reasonable steps to protect your assets.

You wouldn't buy a car without checking the garage's reputation and credibility so don't be taken in by a Will Writer or Solicitor either. For the sake of a phone call or internet search, run a check on the person or firm you intend to use.

The fact is that anyone can hold themselves out as a Will writer, but this doesn't mean they're honest, trustworthy or dependable.

The Society of Will Writers (SWW) exist to provide a consumer safeguard to members of the public who choose to have their Will or succession documents drafted by an SWW member. We do this by vetting practitioners with stringent entry requirements and annual renewals at which point the member in question is required to provide us with up to date proof of insurance and CPD.

CPD stands for Continuous Professional Development. We expect all SWW members to train themselves on an annual basis and report the training undertaken to the SWW.

Putting these safeguards in place is one way that we work to provide you with professionals who are 'safe to do business with.'



Safe to do business with Code Compliant The use of our logo is strictly a membership benefit and the SWW work with the Intellectual Property Office where people purport to be members and aren't compliant. As a consumer you shouldn't simply rely on someone displaying the SWW logo. With over 1700 members working under the SWW banner you should make the necessary checks on the person coming to visit you.

We supply all members with an annual I.D card and certificate of compliance. These should be shown to you upon request. There is no harm in asking to see sight of the professional's insurance as well. Whilst you might not know what to look out for, if it is a current certificate of insurance (professional indemnity) covering their Will writing business then this should be fine. The SWW set a minimum requirement of £2million as a level of indemnity.

If you're ever unsure about the person coming to see you, give us a call. We're only too happy to help.

If you have concerns about a Will Writer, report them to us, trading standards and if you suspect fraud then notify the police or Action Fraud.

As the largest self-regulatory body of our type we work with organisation like the Legal Services Board, The Competitions and Market Authority and the Law Commission on matters relating to consumer protections, transparency within our industry and regarding the legislation governing the creation of these legal documents.

When it comes to the pricing that Will Writers charge the SWW chooses to have no input on this and there are many variables which govern the charges in place. There will be statutory charges for things like the registration of Lasting Power of Attorney Documents, the complexity of the documents needed, and the level of advice provided. Whilst we will never comment on prices charged it is worth consulting a number of Will writers and not allowing any practitioner to force you into making any decisions.

Whilst it's likely that a practitioner will have a great level of knowledge on the subject of succession law, this doesn't mean you need to accept their advice. Where you choose not to follow the advice of the Will writer, they may ask you to sign something to this effect. This will mean that should a claim arise on the grounds of advice in the future, the Will writer will be able to show the advice provided and the decision made by the client.

If you ever have any concerns, give us a call and we'll talk this through with you.

If you're a Will Writer and would like to come under the umbrella of the SWW then call our membership team to understand more about the support, advice and self-regulatory framework we provide.

Will Writing Code of Practice

WHY SHOULD I USE A MEMBER OF THE SWW?

SINCE 1994, THE SOCIETY OF WILL WRITERS HAS BEEN GROWING TO FORM A NETWORK OF OVER 1,700 PROFESSIONAL ESTATE PLANNERS IN THE UK, AND EVEN FURTHER AFIELD IN PLACES SUCH AS CENTRAL EUROPE AND ASIA MAKING US A TRULY INTERNATIONAL ORGANISATION.

No longer are solicitors your only option when writing a Will. In fact, a survey conducted by the Legal Services Board in 2010 found that there was no difference in quality between Wills produced by Will Writers and those produced by Solicitors, which begs the question – with so many Society members available, why should you use one? It's important to note that solicitors also sign up as members of the SWW and make up the 1700.

Insurance – All members of the Society must hold valid Professional Indemnity Insurance covering them to a minimum of $\pounds 2$ million. This covers them for the advice that they give, as well as you, ensuring that if in the event something does go wrong, the necessary legal costs and any potential compensation can be paid.

Training – We require all our members to complete a mandatory 24 hours CPD a year. This is regular ongoing training to ensure that the advice they give is correct and up to date. Many of our members exceed the 24 hours by attending courses, conferences, regional group meetings, etc. to provide you with the best quality service possible.

Code of Practice – The Society enforces a strict code of practice on all members which they must read and adhere to. Members found to be in breach of the code of practice may face disciplinary action. **Complaints Procedure** – All of our members must implement their own complaints procedure as well as adhering to the Society's. Most of the time complaints are dealt with by the member, however if a complaint is ever escalated to the Society we can investigate and take any necessary action. Remember however, we cannot deal with any complaints about Will Writers who aren't members of Society.

Support – Full members of the Society (MSWW) are entitled to advice from our technical team. If there's something a member needs assistance with, they can email the technical advice team and get a response within 48 hours. (Usually much quicker.) This helps them provide you with the best advice, and our technical team is also insured for all the advice they give.

Public Indemnity Fund – All full members of the Society pay into a Public Indemnity Fund when they join. If at any point they cannot complete any outstanding work due to illness, or other unforeseen circumstances, the fund will be used to pay to complete work to ensure that you aren't left without the documents and the services you've paid for*.

All the above is what makes our members 'Safe to do business with'.

To find a member in your local area, visit: www.willwriters.com/members

*subject to terms and conditions.



Ready for all the information you need to know about writing your Will? This article has been written by the Society of Will Writers (SWW). The Society of Will Writers is a non-profit making self-regulatory organisation which seeks to protect the public and serve the interests of those men and women who are active professionals in our field.

The Society has set itself two main tasks:

To promote to the public at large the real need and sense in having a valid Will; and to act as a self-regulatory body by vetting practitioners through stringent membership requirements, proficiency standards and ongoing training.

Why do you need a Will?

There are multiple reasons why you might want to write a Will.

1. Avoid intestacy

If you die without making a Will, known as dying intestate, then your assets will be distributed according to the rules of intestacy. This will mean that the people you would like to receive your estate may not necessarily inherit it.

2. Appoint executors

Executors are the people you choose to carry out your wishes and manage your estate once you have passed away. They are responsible for collecting in your assets, paying any debts and funeral expenses and transferring any gifts to your beneficiaries. If you write a Will you can appoint people who you know and trust to act as your executors.

3. Appoint testamentary guardians

If you have minor children, you may wish to make provision in

your Will for who would care for them if you were to pass away. A Will allows you to appoint guardians you trust and who your children are familiar with, offering you peace of mind. How you would like your children to be brought up can be explained in a letter of wishes accompanying the Will.

4. Provide for the people you care about

A Will allows you to make gifts to individuals who you care about and want to provide for, even those individuals who would not inherit under the rules of intestacy. If you and your partner are unmarried or not in a civil partnership they will only inherit property that you own jointly if you die without a Will. Making a Will allows you to provide for them.

5. Make funeral arrangements

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Within your Will you can make your desired funeral arrangements known. This can include whether you want to be buried or cremated, where you want the funeral to take place and even whether you want flowers at your funeral or donations to a charity you're passionate about in their place.

6. Manage inheritance tax

A carefully drafted Will can help mitigate the amount of inheritance tax you pay on your estate.

7. Gifts to charity

In your Will you can leave a legacy to any charities that you have supported or feel passionately

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about their cause. Any charitable gifts you make in your Will are also free from inheritance tax.

8. Trusts

Using trusts in your Will you can protect your assets such as your family home for your children while still providing for your partner during their lifetime. You can also use trusts to hold assets on behalf of a child until they reach a certain age, or to protect a beneficiary from their own improvidence.

Decisions you need to make?

Aside from the aspects covered under the 'why do you need a Will?' you should consider the following:

Are you excluding anyone?

If there is someone specific that you do not what to inherit from your estate, then you should give careful consideration to the effects of excluding them from your Will. Consider whether they could be able to successfully challenge your Will. If they believe reasonable provision should be made then they will be likely to challenge under the Inheritance (Provision for Family and Dependants) Act 1975. Your Will writer should tell you who is likely to be able to make a claim and some chose to make provision for these parties.

If you are choosing to exclude someone from your Will then you might want to write a letter of wishes to support the Will. Whilst a letter of wishes is not legally binding, it will give your executors and trustees information about why you are choosing to exclude them. In addition, should the case go to court for deliberation then the court may take this into account.

Appointing Trustees

By definition a trustee is an individual person or member of a board given control or powers of administration of property in trust with a legal obligation to administer it solely for the purposes specified.

When you write your Will you have the freedom to choose who you would like to administer the estate and for who you would like to manage assets.

There are many reasons that you would appoint someone to manage assets in your Will. If for example you wanted someone to benefit from a monetary sum from your estate but were worried that they wouldn't manage if the sum was given to them then you could appoint someone to manage the money and 'drip feed' it.

When you appoint a trustee, it should be someone that you trust. If they were to mismanage the assets then this could be a criminal offence. If there is no one that you would trust to handle the assets you would ultimately like to pass on to a beneficiary then you could appoint a professional trustee. Organisations that work in private client will have divisions that can help. The SWW Trust Corporation do exactly this. They act as both professional trustees and attorneys and can make decisions in accordance with the wish of the donor or testator.

For more information on the responsibilities of Trustees then read this article: https://www. willwriters.com/blog/trustees/

Planning your funeral

The British, known for their stiff upper lip rarely like to talk about death. It's the same in some Asian communities. As a result it can sometimes be difficult for the family of the deceased to know how to arrange the funeral. Poor communication has also lead to funerals being paid for twice. We've heard stories where a testator has taken out a prepaid funeral plan but the family were not aware. As a result, when the time came, they arranged the funeral and the estate has essentially paid twice for a funeral.

It would be our advice that if you have taken out a pre-paid plan that this information be included within the Will (with the prepaid plan number). You can also include additional information in your letter of wishes as to how you would like your funeral to be arranged, what music you would like, who you would like to be invited etc.

Do you need a Lasting Power of Attorney (LPA)?

A Lasting Power of Attorney is a document that after being successfully registered with the Office of the Public Guardian, allows you to appoint people to make decisions for you in the event that you can no longer make decisions for yourself.

There are two different types of LPA's. These are one governing health and welfare and the other dealing with property and financial affairs.

It is possible to complete the paperwork for a Lasting Power of Attorney and not register it straight away. The paperwork needs to be signed by the donor (the person who the LPA is for) whilst they still have the capacity. It can then be registered when it is needed.

If you have a history of dementia in your family, then it is sensible to have these documents in place. If you cannot think of anyone you would trust or would like to be your attorney(s) then you have the same option as you do with trustees – you can appoint a professional. They are likely to charge for their time so investigate the costs before deciding.

What happens if you die without a Will?

Dying without a Will is also known as dying intestate. If this were to happen then your estate would be distributed in accordance with a pre-defined set of rules. For more information on what would happen if you died without a Will then this article written by College of Will Writing tutor and technical advisor for the SWW, Siobhan Rattigan, explains all you need to know: https://www.willwriters. com/blog/dying-without-will/

What can you put in your Will?

There is a principle under English and Welsh law that you have testamentary freedom. The freedom of individuals to dispose of their property upon death as they see fit. This principle has been tested in the courts where people have excluded 'close' family members or people who may have a reason to make a claim on the grounds of reasonable provision.

Aside from this you can gift anything you own in your Will.

Is your Will valid?

A Will is made valid by the signing and witnessing process known as the attestation. These formalities are governed under the Wills Act 1837 and specifically under S.9 – http://www.legislation.gov.uk/ ukpga/Will4and1Vict/7/26/ section/9



This provides that the Will needs to be signed by the testator in the presence of two witnesses. The witnesses must not benefit from the Will or would forfeit their gifts. The Witnesses must then sign the Will themselves to acknowledge that they've witnessed the testator sign.

What happens to the 'stuff' that you own that aren't specifically mentioned in your Will?

You don't have to list every single item that you own in your Will. Property that belongs to you that you don't make specific reference to can gifted as part of your residuary estate. Your residue is the part of an estate that is left after the payment of charges, debts, and bequests have been made.

For lower value gifts you can refer to this in your letter of wishes but bear in mind that this is not legally binding.

Binding a Will

There are no formal rules governing how a Will should be bound however a Will writer will let you know what their guidance is. When it's being signed it ought to be held together but this can be done by your finger and thumb.

When the Will goes to probate the probate registrar will look over the document for signs of it being tampered with. If the document has been stapled and there are additional staple marks then questions are likely to be asked as to where the Will has been dismantled.

The traditional/common ways to bind a Will include heat sealing or

the use of legal corners. Your Will writer will bind everything for you.

Digital Assets

When you're doing your estate planning you should consider all the things and platforms that your family or beneficiaries will need to cancel, access or may want to see when you're not here. Some providers will require a death certificate to close a profile and other platforms like Facebook can create a memorial page once you're no longer around so that your photos and memories aren't forgotten or lost.

Your executors will need access to things like your PayPal account, lottery account or any betting accounts in order to draw in assets and to close them. You can store your passwords for platforms like this in digital vaults where access can be granted after your passing.

'Stuff' you can't put in your Wills

There have been legal disputes about things that beneficiaries have wanted to make use of after death, but the providers have put a stop to. A prime example of this would be iTunes accounts. The terms and conditions within iTunes essentially grant you a license to play music after it has been purchased. This terminates on death and despite having spent considerable sums of money on music this cannot be gifted in your Will according to the terms of use set out by Apple.

Writing your Will can seem like a daunting process and has the potential to be complicated. Before you see your Will writer, list your assets, liabilities, and Think about what you would like to see happen. Explain it to your Will Writer. They'll give you advice.

who you would like your 'stuff' to go to. They'll help you to put an estate plan in place.

The Will Writers advice

The price of the documents the Will writer is going to produce for you and the information they provide is down to advice. You may think that what they propose to charge seems expensive but bear in mind that they incur the costs of travel, document production, insurance etc. They also charge you for their time and advice it may seem more reasonable. You are under no obligation to proceed after hearing the pricing if you don't wish to and don't have to proceed with the plans they propose but understand that this is what they do for a living and as such they should be giving you best advice.

If you choose not to accept their advice in favour of another decision they may request that you sign a document to this effect. This may limit their liability further down the line. Also note that they can only provide advice based on the information you provide so you should be as up front and honest as possible with your estate planner.

Should I get a free Will?

A Will is very rarely ever likely to be free. There are schemes that offer 'free Wills' but they be insist or ask for charitable donations instead. Ensure you read the terms and conditions for any campaign before signing up.

For more information on 'free Wills' refer to our article, 'Is there such a thing as a free breakfast?': https://www.willwriters.com/blog/ thing-free-breakfast/

Contesting a Will

To contest a Will, you are likely to need legal advice. If you feel like you've been disinherited or haven't inherited as much as you should have then speak with a solicitor who will provide you with advice.

They're likely to start by looking into the case files held by the Will writer who produced the documents. They will be looking to identify what advice was given and what the intentions of the testator were. This letter is known as a Larke v Nugus letter.

For more information on a Larke v Nugus letter then refer to this article written by the SWW: https:// www.willwriters.com/blog/larke-vnugus-2/

Meeting your Will Writer

One of the key differences between a Will Writer and a Solicitor is that the Will Writer is more likely to meet with you in your home or place of work to take your Will instructions. As a result, any engagement you have with them will be governed by the Consumer Contract Regulations. Having the appointment in your home should put you a little more at ease and having your address before the meeting, the Will writer will be able to make checks with the land registry as to how the property is held.

also want to compile a list of how you would like your estate to be distributed and also what assets are comprised in your estate. You might want to list what life insurance policies you have, what pensions you pay into and what online accounts you have that might be valuable.

Who to choose?

This is probably one of the most difficult things to decide and careful thought should be given to this. Don't be frightened to ask questions to Will writers you propose to use.

Ask them if they subscribe to a Code of Practice and if they are a member of a self-regulatory body like the Society of Will Writers. Even if they say yes, don't take this for granted. Feel free to ring our team and check. Check our website to see if they're listed on there (not all members choose to have a web listing).

We would advise doing a web search for the company in question to identify what other people's experiences are.

If you choose to use an SWW member, you should understand that we regulate individuals and not the company. As such the company is not a member. If you have a specific individual coming to see you check that the person is a member. They should be able to provide you with an up to date certificate of compliance and a membership ID card.

Don't allow yourself to feel pressured by your Will Writer. Take time to think about the advice, remember you have a 14 day cooling off period if you've met the Will writer in your home. We would also encourage you to read all documentation through carefully before signing. Anything you don't understand, you should ask about.

If you would like us to put you in touch with a member of the SWW then give us a call on 01522 68 78 88.

Can I write a Will myself?

The short answer is yes. Anyone can write their own Will in the same way that anyone can hold themselves out as a Will Writer. There are no formal qualifications needed but the subject of succession is an incredibly complex one and you should acknowledge the risks of writing your own Will. For more information on the dangers of 'DIY' Wills take a look at our article:

https://www.willwriters.com/blog/ danger-diy-wills/

Members of the SWW undertake regular training to ensure their knowledge is up to date. The legislation governing our profession is complex and has wide reaching effects. Before you decide that you have a simple estate and therefore only need a simple Will speak to a legal professional for free and independent advice. Remember that you don't need to proceed straight away.

How much is a Will or estate plan?

People often think that they only need a basic Will and this is rarely

Before the meeting you may

the case. A Will Writer will be able to give you in depth advice as to how they access your needs.

Where the inclusion of trusts takes place the cost of a Will is likely to increase. Consider also that your Will writer can help you with LPA's, severing the tenancy on your property, as well as Will storage. These will all have a cost attached to them.

Remember that you're not only paying for the Will but for the advice being provided. Consider the tax savings on the estate as well before coming to the conclusion that it's all too expensive.

In summary, there are no fixed costs for a Will. It depends on your needs, the advice provided, and there are countless variables like location etc. Speak with a Will Writer to get an idea and remember not to feel pressured.

Will storage – practical considerations

The key considerations when it comesto Will storage are that when the time comes, your executors need to know where your Will is so they can act upon your wishes. We've heard countless stories of Will Writers going out of business and clients not being able to find their Will, people storing at home and the Wills going missing or being destroyed by accident. Remember that if you store your Will in a bank deposit vault then your executors won't be able to access it.

If you chose something like The National Will Archive through the SWW then your executors can be provided with 'credit card' style records of where the documents are held. You as the testator will



be provided with a certificate of safe storage. We store in excess of 100,000 documents.

www.thenationalwillarchive.co.uk

The difference between storage and registration

It is important to note that there is a difference between Will storage and Will registration. There is no national register for Wills but Certainty – The National Will Register hold probably the largest record of where Wills are stored. They know the location of over 7.5 million Wills. They don't store Wills.

Will storage is just that; the physical storage of the Wills. If your Wills are stored with The National Will Archive then it is likely that they are registered with Certainty. This will increase the chances of a Will being found should the location not be known by the executors in a Will.

What does storage cost?

Typically, Will storage is charged annually. This ranges from £30 to £50 but can cost more depending on the other services being offered and what is stored. If updates are included, then it is likely to increase.

The Society of Will Writers do not believe in lifetime storage with free updates. There are no guarantees that the Will writing company will be able to guarantee this service or be there to offer the service in years to come.

Nervous about writing your Will..

Don't be. Remember, you're in control and you can ask as many questions as you like. You wouldn't buy a car if you weren't happy, so apply the same logic. If you have any questions then speak to the Society of Will Writers by calling 01522 68 78 88.

Alternatively visit our website: www.willwriters.com





DVING WITHOUT

Over **60%** of the UK adult population do not have a valid will. This means that when they pass away their estate will be distributed according to set of rules known as the rules of intestacy.

Intestate is the word for a person who dies without a will, and also for the act of dying without a valid will.

Who benefits under the rules of intestacy depends on the size of the deceased person's estate and the family members that survive them.

The rules of intestacy may not distribute your estate the way you would have done if given the choice. This can mean that people who you would have wanted to provide for may be left out, or people that you would have preferred to exclude will end up taking a benefit.

If you die intestate leaving behind a spouse or civil partner and children, then your estate will be distributed as follows:

Estate under £250,000:

Your spouse will inherit everything.

Estate over £250,000:

The spouse will receive all personal chattels (these are 'tangible movable assets' such as jewellery and furniture), a legacy of £250,000, and half of what remains of the estate.

The children will receive the other half of the estate.

This may not be appropriate – you may have wanted your spouse to receive your whole estate. It may also be inappropriate to you if you and your spouse have informally separated.

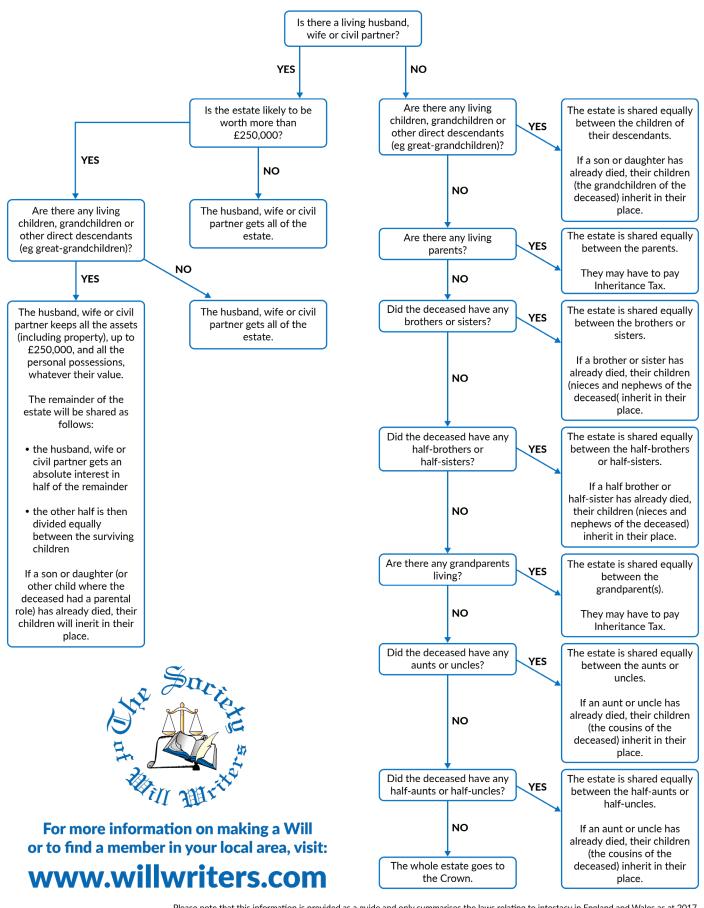
If you die intestate leaving behind an unmarried partner and children, your children will inherit your entire estate. The rules make no provision for an unmarried partner or cohabitant, so if you are not married to your partner they will be left with no provision from your estate unless they apply to the courts for provision under the Inheritance (Provision for Family and Dependants Act) 1975.

Example: Angela has been in a relationship with her partner John for 20 years. They live together but have chosen not to marry. They have no children. Angela dies intestate, so her estate is distributed according to the rules of intestacy. As she was not married to Barry he does not inherit under her intestacy. There are no children, and she has no parents living, so her estate is distributed to her only sister.

If you die leaving no blood relations your entire estate passes as bona vacantia (vacant goods) to the Crown.

Making a will is the best way to plan for your estate and avoid any unintended and unfair consequences.

The flow chart demonstrates who will inherit



Please note that this information is provided as a guide and only summarises the laws relating to intestacy in England and Wales as at 2017. This page illustrates the new rules set out in the Inheritance and Trustees' Powers Act 2014 which came into force in October 2014. Information in this flowchart provided by - https://www.gov.uk/inherits-someone-dies-without-will





What would happen to your children if you died?

Are you a parent to minor children? If so, have you considered what should happen to your children in the event of you and your partner's death while the children are still minors? If not then you ought to consider making a Will and appointing guardians to take over the care of your minor children in the event of your death. The alternative is to leave your children's guardianship in the hands of the Court.

Duties of Guardians

Guardians will take on parental responsibility for the children, and will take on the same duties of a parent:

- Deciding where the children live
- Providing them with a home
- Deciding on their medical treatment
- Day to day care of the children
- Deciding on the children's education.

What to consider?

It's important to carefully consider who should act as your children's guardian. While many parents would choose their own parents to take guardianship you should consider how practical this is. If your parents are elderly is it likely that they will be physically capable of caring for your minor children?

You should also consider whether the children already have a relationship with your proposed guardian(s). Do they live close by or will the children need to move far away, and if they do need to move how will they cope with being uprooted like this? What is the guardian's financial position like? Will they have the means necessary to care for your children? Any financial burden on them can be alleviated by leaving a sum of money in trust to your children, as this may be made available to the guardians to assist with the children's maintenance, education and other benefit.

Number of Guardians

You may appoint multiple guardians. You may even appoint different guardians for different children, however this would be unusual and would lead to the children being split up.

You should consider how many guardians it is reasonable to appoint. Often a couple will want to involve both sets of grandparents or siblings equally, but this can lead to a situation where there are too many guardians to properly manage the children's upbringing – especially where not all of the guardians can agree on what it best for the children.

Where you don't want either side of the family to feel excluded the best solution is to appoint one side as the first guardians, and include the others as substitute guardians.

Financial Provision

Acting as a guardian for your children does not have to cause financial hardship. If a sum of money or share of your estate is held on trust for your children until they reach their majority the trustees of your estate have powers to advance money to the guardians to assist them with the care of the children.



If you have any questions about Wills, or any of the content in this magazine, please contact The Society of Will Writers:

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Telephone: 01522 68 78 88

Email: info@willwriters.com

Web: www.willwriters.com



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Funeralcare

At Co-op Funeralcare we're here to do right by you and your family. That's why we've made it easy for you to plan and pay for your funeral in advance. It costs less than you might think and can protect your family from an unwelcome financial burden in the future.

Your funeral, your way

Unlike some funeral plan providers, we promise to cover the costs of your chosen burial or cremation plan,** even if prices rise in the future. And with a range of fully guaranteed funeral plans from £2,995, you can have peace of mind knowing your funeral's sorted.

Why do I need a Co-op funeral plan?

A funeral plan lets you plan and pay for your funeral in advance. It's an easy way to get your funeral arranged whilst protecting your loved ones from rising costs and uncertainty about your final wishes. By planning ahead you can:

Beat rising funeral costs Save money by paying for your funeral at today's prices. Ensure loved ones are protected Guaranteeing they'll have nothing extra to pay for the

services you choose in your plan.**

Plan it your way At such a difficult time, you'll be able to say goodbye your way.

Choose how to pay We have a range of affordable payment options including paying in full, spreading the cost over 6 or 12 months with no additional costs or monthly instalments over 2 – 25 years (instalment charges apply).



Funeral plans from £2,995

We offer a wide range of funeral plans for both burial and cremation, all planned and carried out by us. Prices start from £2,995 for our Simple plan. Whatever your budget, however you want to say goodbye, we've got a plan to suit you.

We offer a choice of four set plans:

Simple Bronze Silver Gold

Each of our plans provide all the essential services for a burial or cremation**.

Our Gold funeral plan has been awarded a Defaqto 5 Star Rating.

Ways to pay

There are three affordable ways to pay

- 1. Pay in full with one single payment
- 2. Pay in instalments over 6 or 12 months at no extra cost
- 3. Pay in instalments over 2 25 years age restrictions and instalment charges apply

The Co-op Commitment

If you choose to pay in instalments over 2 – 25 years, your plan will include the Co-op Commitment. If you die after the first 12 months of your plan, but before you've paid in full, Co-op will still deliver all the services provided in your plan, with no more for your family to pay. You'll be entitled to the Co-op Commitment if you die within the first 12 months as the result of an accident*.

Don't just take our word for it

Based on independent customer funeral plan feedback from verified reviews, our funeral plans have an average rating 4.7 stars out of 5.



* For full terms and conditions visit www.coop.co.uk/funeralcare. Instalments must be paid up to date and your funeral must be arranged and carried out by one of our Funeral Directors. **As prices and availability vary across the UK, Co-op Funeralcare burial plans do not include the cost of buying a grave. "I have the peace of mind knowing that it is all sorted and paid for and that my family don't have to worry when the time comes. Would definitely recommend." Glenys, Plymouth

